

## Message Text

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E.O. 11652: N/A

TAGS: CI, PGOV

SUBJECT: RELAXATION IN APPLICATION OF CODE OF MILITARY JUSTICE

1. SUMMARY: UNDER MILITARY AND CIVIL CODES OF CHILE PRACTICE HAS BEEN TO ASSIGN TO MILITARY TRIBUNALS PROCESSING OF BOTH MILITARY AND CIVIL OFFENSES WHEN A PERSON IS CHARGED WITH BOTH SIMULTANEOUSLY. NEW DECREE PROVIDES THAT CIVIL OFFENSES WHEN SEPARABLE IN SUCH SITUATIONS WILL BE TRIED BY CIVIL COURTS. END SUMMARY.

2. CHILEAN MILITARY AND CIVIL CODES HAVE IN PAST GIVEN MILITARY TRIBUNALS COMPETENCE OVER ALL OFFENSES OF A PERSON SIMULTANEOUSLY CHARGED WITH VIOLATIONS UNDER BOTH MILITARY AND CIVIL LAW. THIS HAS BEEN GENERAL PROVISION UNRELATED TO PRESENT STATE OF SIEGE. INTRODUCTION TO NEW DECREE LAW EXPLAINS CHANGE NEEDED BECAUSE OF "... INAPPROPRIATENESS (INCONVENIENCIA) OF EXTENDING MILITARY JURISDICTION MORE THAN IS STRICTLY NECESSARY BY REASON OF CLOSE RELATIONSHIP BETWEEN FACTS AND PARTICIPANTS".

3. DECREE LAW 751 SIGNED NOV 11 AND PUBLISHED NOV 16 SUBSTITUTES NEW ARTICLES IN MILITARY AND CIVIL CODES WHICH STATE THAT "WHEN THE SAME PERSON COMMITS OFFENSES  
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UNDER MILITARY JURISDICTION AND UNDER CIVIL JURISDIC-

TION, WHICH ARE NOT CONNECTED, THE MILITARY TRIBUNAL WILL BE COMPETENT TO TRY THE FORMER AND ORDINARY (CIVIL) TRIBUNALS THE LATTER." DECREE ADDS THAT IF THIS SEPARATION INTERFERES WITH PROCEDURES OR MAKES THEM MORE DIFFICULT, THE REQUIREMENTS OF THE MILITARY TRIBUNAL WILL HAVE PREFERENCE. WITHIN ONE YEAR OF VERDICT OF LAST TRIAL, MILITARY OR CIVIL, ACCUSED MAY APPEAL TO SUPERIOR CIVIL RPT CIVIL COURT FOR "UNIFICATION OF PENALTIES WHEN THIS WILL BENEFIT HIM." FULL TEXT AND TRANSLATION FOLLOW BY AIRGRAM.

4. COMMENT: THIS MAY REPRESENT BOW TO HEAVY CRITICISMS WHICH HAVE BEEN LEVELED AT GOC FOR ITS APPLICATION OF "WARTIME" MILITARY JUSTICE SINCE COUP OF SEPT 1973. WHILE NOT OF MAJOR IMPACT, IT DOES PROMISE CIVIL TRIAL WITH ITS BUILT-IN APPEAL AND REVIEW MECHANISMS FOR PERSONS SUCH AS EX-ALLENDE GOVT AND "UNIDAD POPULAR" FIGURES WHO MAY BE ACCUSED OF CIVIL OFFENSES SUCH AS TAX EVASION IN ADDITION TO "NATIONAL SECURITY " OFFENSES, WHICH MILITARY WILL CONTINUE TO TRY. NEW DL ALSO APPEARS TO OFFER FIRST BREACH IN WALL WHICH PERMITTED NO APPEAL FROM DECISIONS OF MILITARY COURTS. CIVIL APPEALS COURTS FOR FIRST TIME APPEAR TO BE PLACED IN POSITION TO MAKE SOME REVIEW OF SENTENCES IMPOSED BY MILITARY TRIBUNAL IN SPECIAL CASES OF DUAL TRIALS. DEEPEST SIGNIFICANCE OF THIS SHIFT MAY BE REFLECTED IN RECOGNITION EXPRESSED IN PARA 2 ABOVE THAT MILITARY JUSTICE MAY BE BETTER LIMITED TO THE "STRICTLY NECESSARY". END COMMENT.  
POPPER

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